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Manzanita Partners, LLC
3990 Ruffin Road, Suite 100
San Diego, CA 92123

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APN: 215-020-25

PRESERVE MANAGEMENT PLAN AND FUNDING AGREEMENT

MANZANITA APARTMENT PROJECT

March 2012 (Executed)

Prepared by:



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I. INTRODUCTION

Purpose of Inclusion of the Preserve area in the HMP

As part of the approval process for the Manzanita Apartment Project (Subject Property), Manzanita Partners, L.L.C. (Manzanita Partners) granted a Conservation Easement as depicted on Exhibit A, to provide mitigation for certain impacts of the Manzanita Apartment Project pursuant to the Mitigated Negative Declaration adopted by the City of Carlsbad, SCH No. 99051009, and the Mitigation Plan created thereunder. 32.09 acres is reserved by easement to conserve the biological open space for the purpose of preserving and enhancing resource values.

In addition, the City of Carlsbad approved site development plan, SDP-98-19, and imposed Condition Number 33 of Planning Commission Resolution 4620, dated September 15, 1999, which generally states: a) continued ownership by the Developer or its successors in interest in open space until some future date at which time ownership will be transferred to the City or its designee for perpetual maintenance; b) while in continued private ownership, active maintenance to protect and preserve the quality of the habitat (including but not limited to reasonable prevention of trespass); and, c) transfer of ownership and maintenance responsibility at some future date to the City or its designee simultaneously with transfer of funding or other acceptable financial mechanism to provide for management and conservation in perpetuity.

Additionally, the 32.09 acres has been designated as an open space preserve to protect habitat for the coastal California gnatcatcher, protect Del Mar Manzanita, and to protect vernal pools.

The management objectives of this Preserve Management Plan and Funding Agreement are to provide a long term plan for the maintenance and management of the conservation area, outline the biological goals, and state the responsibilities of the parties involved.

Preserve Area History

The United States Army Corp of Engineers issued a Nationwide Permit Authorization, Permit Number 98-2025500-DZ, on April 4, 1999. The Corp of Engineers has determined that the activity complies with the terms and conditions of nationwide permit NW 14 [Federal Register, December 13, 1996, pp. 65874 – 65922] for fills for roads crossing waters of the United States.

The United States Fish and Wildlife Service issued a Biological Opinion No. 1-6-99F-063, on October 21, 1999, in relation to the Subject Property.

A Conservation Easement Deed with Manzanita Partners, L.L.C. as the Grantor, and the City of Carlsbad as the Grantee, was recorded October 24, 2003, as Document Number 2003-1303922. The Conservation Easement consists of three parcels as shown on Exhibit A. The three

parcels come to a total of 32.09 acres; parcel 1 is 5.68 acres, parcel 2 is 0.45 acres, and parcel 3 is 25.96 acres.

An Irrevocable Offer to Dedicate Real Property with Manzanita Partners, L.L.C. as Grantor, grants to the City of Carlsbad an easement and right-of-way for an open space easement, recorded January 28, 2004, as Document Number 2004-0068199.

The Subject Property is a Hardline area within the Habitat Management Plan (HMP).

Purpose of this Management Plan

The plan guides management of habitats, species, and programs described herein to achieve the City's obligation to protect and enhance wildlife values under the MHCP, HMP, and Implementing Agreement. The Basis for the proposed activities and funding is found in "Management Funding Analysis" (MFA), on file in the City of Carlsbad Planning Department.

II. PRESERVE AREA DESCRIPTION

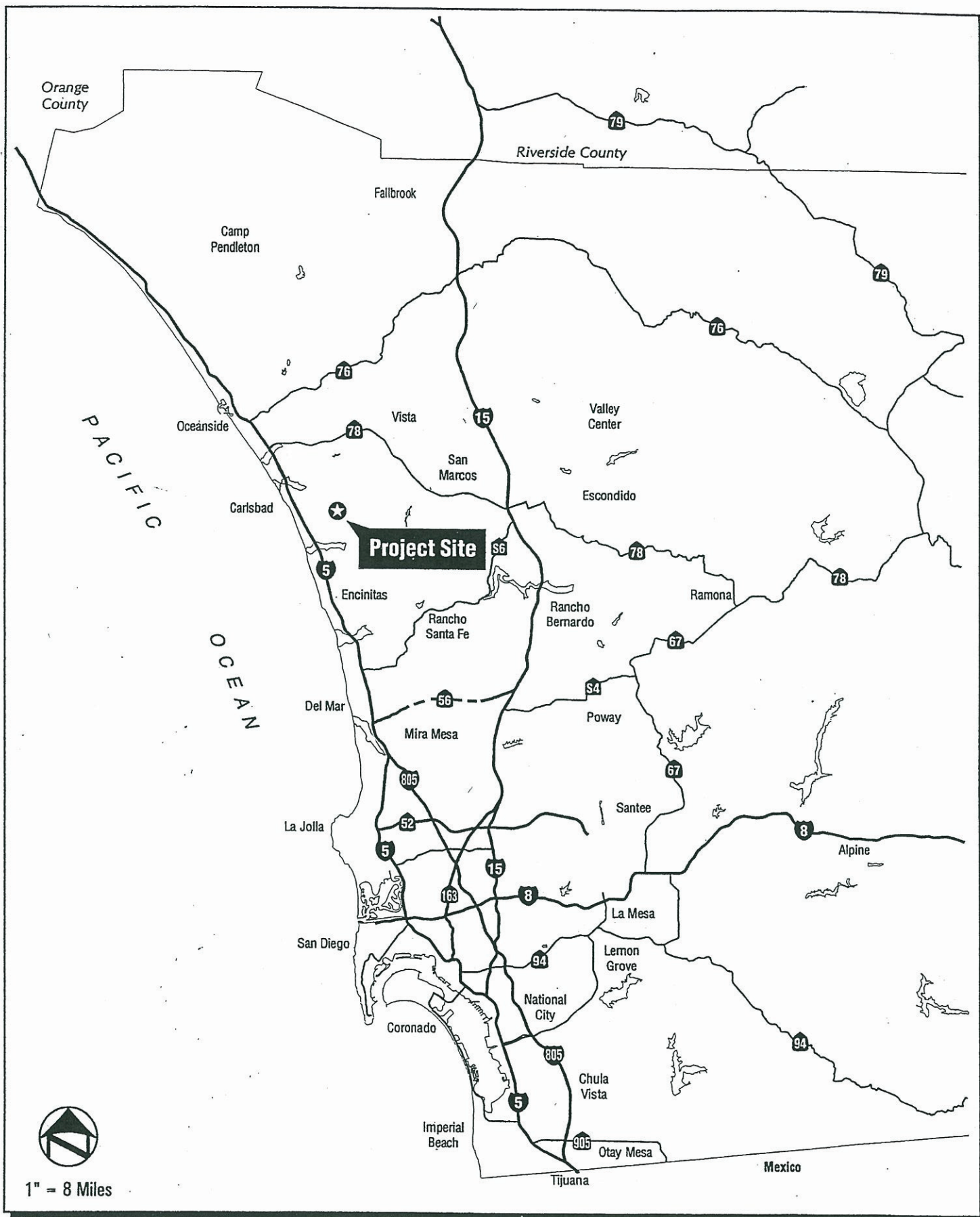
Geographic Setting

The Manzanita Partners property is divided by El Camino Real approximately 1.5 miles south of its intersection with Palomar Airport Road, in the southern portion of the City of Carlsbad, San Diego County, California (Figure 1). The property is situated in the northeast corner of the USGS 7.5 minute Encinitas quadrangle and the southeast corner of the USGS 7.5 minute San Luis Rey quadrangle (Figure 2). Elevations on the site range from about 220 feet above mean sea level (amsl) at the western end of the property to about 330 feet amsl at the eastern portion of the property. El Camino Real divides the property into a larger western and a smaller eastern portion. Extensive vacant land occurs east of the site across El Camino Real. (Dudek, 1998).

Soils

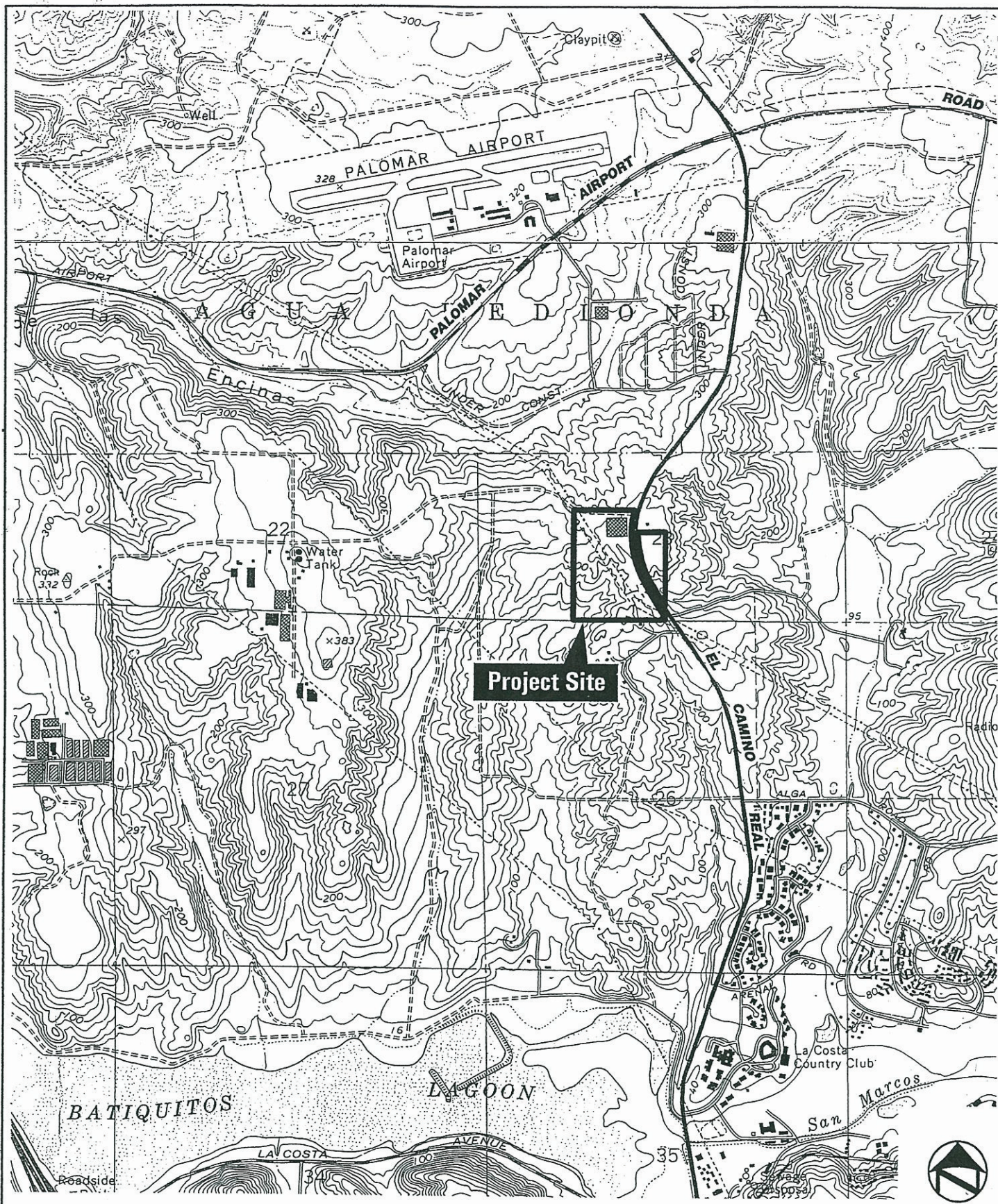
Soils mapped for the property include Huerhuero loam; Loamy alluvial land-Huerhuero complex, severely eroded; and Chesterton fine sandy loam (Dudek, 1998).

See Biological Resources Report and Impact Assessment, Manzanita Partners Property by Dudek & Associates, December 21, 1998, on file in the City of Carlsbad Planning Department, for full description of soil types.



Manzanita Partners Properties - Biological Resources Report & Impact Analysis
Regional Map

FIGURE
1



BASE MAP SOURCE: USGS 7.5 Minute Series, Encinitas & San Luis Rey Quadrangles

1" = 2000'

Manzanita Partners Properties - Biological Resources Report & Impact Analysis
Vicinity Map

FIGURE
2

Preserve Area Boundaries and Historic/Adjacent Land Use

See Exhibit A for Preserve Area Boundaries.

The Subject Property was historically used as a nursery in the northern portion. Existing apartment projects are adjacent to the north and east. Existing single-family homes are adjacent to the south. A new residential project is anticipated to be built to the immediate west. The property is traversed by an SDG&E transmission line, which will remain on the property.

Ownership and Legal Description

The Subject Property consists of two parcels: 215-020-24 and 251-020-25. Both of the parcels are under the ownership of Manzanita Partners L.L.C., 3990 Ruffin Road, Unit 100, San Diego, CA 92123-4805. All three of the conservation easement parcels have been remapped by the San Diego County Assessor and are now mapped as Assessor Parcel 215-020-24.

Assessor Parcel 215-020-25 is assigned to the apartment community known as The Tradition, which is under the management of ConAm Management Corporation, 3990 Ruffin Road, Suite #100, San Diego, CA 92123, Phone: (858) 614-7200, Fax: (858) 614-1646, email: SoCal@ConAm.com.

Conservation Easement Compliance

The recorded Conservation Easement provides a list of permitted and prohibited uses of the land. The Preserve Contractor must monitor the preserve, insofar as the MFA provides, ensuring that the Owner and Preserve Manager are not violating the conditions of the Conservation Easement.

The Conservation Easement Deed and compliance conditions are on file in the City of Carlsbad Planning Department.

III. HABITAT AND SPECIES DESCRIPTION

Vegetation Communities, Plant Species, Wildlife Species, and Species covered by the HMP and other Sensitive Species

See Biological Resources Report and Impact Assessment, Manzanita Partners Property by Dudek & Associates, December 21, 1998, on file in the City of Carlsbad Planning Department, for a full description of flora and fauna.

See City of Carlsbad HMP Covered Species Presentwithin Manzanita Partners Open Space Area on file in the City of Carlsbad Planning Department.

See Figure 3, Bio Resources Map on Proposed Site Development, to understand development envelope in relation to vegetation communities.



VEGETATION TYPES:

- CSS** Coastal Sage Scrub
- SMC** Southern Maritime Chaparral
- CBS** Coyote Brush Scrub
- LOW** Coast Live Oak Woodland
- WET** Seasonal Wetland
- Vernal Pool (with ID number)
- AGL** Annual Grassland
- EUC** Eucalyptus Woodland
- DH** Disturbed Habitat
- DEV** Developed Land

NOTE: A lower case 'd' in front of a vegetation type designator indicates that it is disturbed.

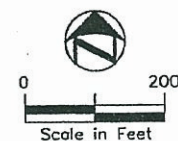
SENSITIVE PLANT SPECIES:

- Ag or *Arctostaphylos glandulosa*
- Bo *Brodiaea orcuttii*
- Cd *Comarostaphylis diversifolia*
- Cf *Corethrogyne filaginifolia* var. *linifolia*
- Cv *Ceanothus verrucosus*
- Sc *Selaginella cinerascens*

NOTE: Numbers indicate individual plant counts at that location.

SENSITIVE ANIMAL SPECIES:

- CAGN California gnatcatcher



Threats

There are three main threats to the conservation area that are the main focus of the maintenance and management plan; weeds, trespassing, and trash. Weeds and exotic plant growth are to be controlled to avoid invasion into the conservation area and the restored vernal pools. See Table 1 for a list of Target Exotic/Weed Species to be eradicated within restoration and enhancement areas. The Owner shall provide and the Preserve Manager shall maintain the 3-strand wire fencing in the general location delineated on Figure 4 to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the conservation values of the Subject Property. Fencing and signage are to preclude vehicle and human access into conservation area. The Owner will execute a General Enforcement Authorization Agreement with the Carlsbad Police Department for the purpose of allowing entry for the enforcement of Federal, State and Local laws Trash removal is necessary for all conservation parcels, but more specifically for the eastern vernal pool parcel due to the proximity to the El Camino Real thoroughfare and the prevailing onshore wind that will blow trash into the conservation area.

The threats to the conservation area are further addressed in the maintenance and management plan, and the Biological Goals mentioned in Section IV.

While the possible threat of fire exists, there is no recent history of occurrence on this site.

IV. MANAGEMENT AND MONITORING GOALS

The Preserve Manager, pursuant to this Preserve Management Plan, is the Owner's (Manzanita Partners, or successor) designated Preserve Contractor. In the event that the Subject Property is sold, the role of Preserve Manager will transfer to the new owner's designated Preserve Contractor with all obligations set forth herein. The initial Preserve Contractor is to be Habitat Restoration Services, Inc. (HRS) or a landscape preserve contractor with an equal ability to manage sensitive habitat, as approved by the City of Carlsbad. In approving the Preserve Contractor, the City is also designating the Contractor as Preserve Manager.

The Preserve Manager will be the designated Preserve Contractor up until the time the City of Carlsbad or another entity is granted or accepts the responsibility. The Preserve Contractor is to monitor and maintain the conservation area. In addition, the Preserve Contractor is to conduct inspections and report on the conservation effort, and maintain records management. The Owner will manage the Preserve Contractor who will provide an Annual Summary to the City of Carlsbad, including the owners account status report and a projection of activity for the next year

The activities of the Preserve Manager will be monitored by the City of Carlsbad, U.S. Fish and Wildlife Service and the California Department of Fish and Game (agencies). In the event that the agencies determine that the obligations of this agreement are not being met they shall notify the

TABLE 1

Target exotic/weed species

Common Name	Botanic Name
Mustard	Hirschfeldia Incana
Italian Thistle	Carduus Pycnocephalus
Spiny Sowthistle	Sonchus Asper

Preserve Manager and provide a copy of the notification to the Owner. The Owner shall contact the Preserve Manager and review the Manager's proposed response to the notification.

In the event that the Manager is non-responsive or found to be in violation of the terms of the Owner/Manager agreement, the Manager may be replaced by the Owner in consultation with the agencies, subject the original scope of work and budget.

Biological Goals

The biological management goals for the preserve area are predicated on the annual budget per the Management Funding Analysis (MFA), on file in the City of Carlsbad Planning Department. Due to budgetary constraints this Preserve Management Plan will rely on volunteer labor for weed control and trash control. The volunteer labor is anticipated to be provided by, for example, local grassroots organizations, environmental organizations, and scout troops. Oversight of this work force will be coordinated with private and public agencies by the preserve manager.

The main goal is to preserve the vernal pools on the eastern parcel. In doing so, a main concern is weed control in or near the pools. Weed control is to occur in phases by a volunteer work force, eradicating as many weeds as possible in a given area based on volunteer labor hours available. The phasing is necessary since the weed eradication on the entire subject property cannot be accommodated with the budget allocated. The second goal is to collect as much trash as possible on the eastern parcel with a volunteer labor workforce. The third goal is to prevent unauthorized trespass into the open space lot by maintaining the three-strand wire fencing and no-trespassing signage.

Additionally, the MFA budget provides for the hauling of debris and the disposal of trash. The remainder of the MFA budget is for project management, inspections, reporting, contingency, and reserves.

In order to meet the biological goals the tasks below are to be accomplished as per the MFA, subject to the fund earnings and initial 5-year Owner Contributions. In the event that the fund earnings do not cover the tasks within the MFA then the Preserve Manager is to advise of the highest priority tasks and under no circumstance is the owner required to supplement funding beyond the initial endowment and 5-year Owner Contributions, *as defined in section VI below*, to meet the objectives of the Preserve Management Plan.

Preserve Management is to include all management and coordination tasks to insure proper inspection, maintenance, monitoring, and reporting of conservation area. The Preserve Manager will inspect the conservation area on an annual basis, coordinate and manage the work to be accomplished, and provide an Annual Summary to the City of Carlsbad and the Owner.

Fencing is to be inspected on an annual basis and maintenance or repair is to be coordinated to insure trespassing is avoided by vehicle and human traffic.

Signage notifying the public that the area is a conservation area and trespassing is prohibited is to be installed and maintained. Signage is to be installed at areas where trespassing may occur.

A rare plant survey is to be conducted by a Plant Biologist every 10 years. A report on the survey from the Plant Biologist will be included in the Annual Summary. The rare plant survey will need to be provided to the City of Carlsbad in a form that meets City requirements. The City of Carlsbad and other public regulatory agencies are authorized to enter the preserve area to conduct surveys subject to providing advance notice to the preserve manager and execution of appropriate hold harmless agreements.

Vegetation mapping from the Plant Biologist will be provided to the Preserve Manager to be included in the Annual Summary. The vegetation mapping will need to be provided to the City of Carlsbad in a form that meets City requirements.

A California gnatcatcher (CAGN) survey is to be conducted by a Wildlife Biologist every 10 years. The survey from the Wildlife Biologist, managed by the Preserve Manager, will be included in the Annual Summary. The CAGN survey will need to be provided to the City of Carlsbad in a form that meets City requirements.

Under the management of the Preserve Manager, trash collection will be provided by a volunteer workforce. Volunteer trash collection can be collected on an as-needed basis, however the MFA has budgeted the Project Management of the trash collection on an annual basis. The Preserve Manager is to advise the volunteer workforce of the concern with human foot traffic on sensitive ecology in the conservation area. The Preserve Manager will coordinate the debris disposal with a waste management contractor.

Under the management of the Preserve Manager, weed control will be provided by a volunteer workforce. Volunteer weed control can be accomplished on an as-needed basis, however the MFA has budgeted the Project Management of the weed control on an annual basis. Weed control is to occur in phases by a voluntary workforce, eradicating as much weeds as possible in a given area based on volunteer labor hours available. The phasing is necessary since the weed eradication on the entire subject property cannot be accommodated with the budget allocated. The Preserve Manager has commissioned a Weed Puller Guide of the weed species that are most invasive or create the greatest threat to the conservation area. The Weed Puller Guide has been produced as a picture-book for the ease of weed identification for the lay person. The Preserve Manager is to advise the volunteer workforce of the concern with human foot traffic on sensitive ecology in the conservation area. It will be the Preserve Manager's decision to determine if the eradicated weeds can be mulched or composted on site, or if a waste collection contractor is necessary to haul the plant material off site.

Preserve Manager is to obtain a Financial Account of the Fund from the Fund Manager (Owner) and add the Financial Account to the Annual Summary that is to be provided to the City of Carlsbad.

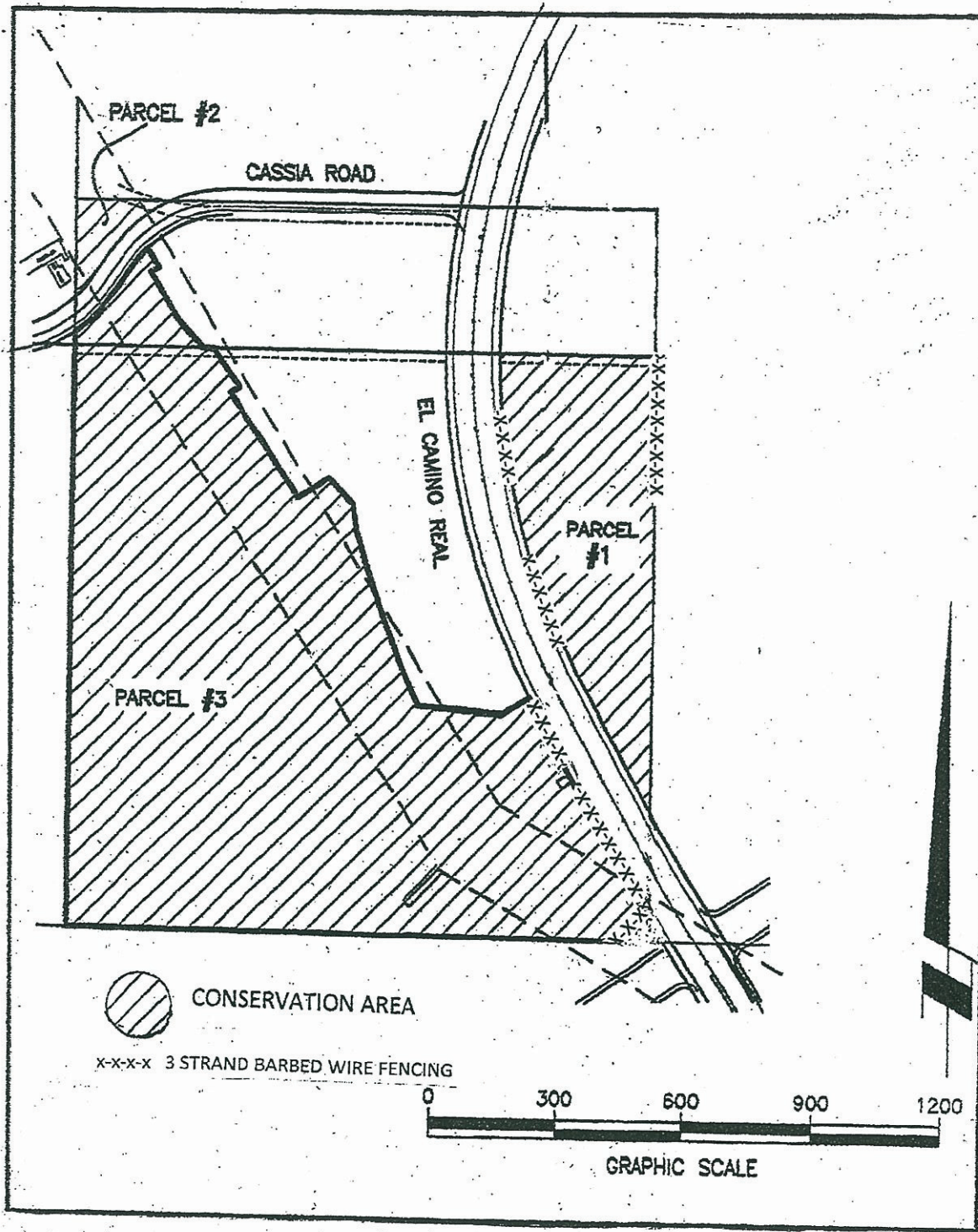
Preserve Manager is to provide an Annual Summary to the City of Carlsbad summarizing the site condition and work performed.

Funding

The Preserve Management Fund (Fund) in the amount of \$51,000 is based on a cost per acre established in the Conditions of Approval for the Manzanita Apartment project. The interest income from the endowment Fund will provide the basic maintenance for the conservation area. All tasks proposed by this Preserve Management Plan are based on projected non-wasting endowment revenues, and supplemented by an initial 5-Year Owner Contribution Plan, as noted in the MFA, of \$2,500.00 per year.

Fencing

Fencing on the western and eastern parcel is to be installed at certain critical access points of human trespass. The installation of fencing along the complete border of the parcel poses an impact to mature vegetation, therefore certain select areas have been delineated for fence installation to avoid habitat destruction by the fence installation construction crew and construction equipment. Initial installation of a 3-strand wire fence will be provided by the Owner and installed in the general location depicted on Figure 4.



MANZANITA PARTNERS OPEN SPACE FENCING
March 16, 2012

FIGURE
4

Public Use Goals

Public use is not authorized for either the western or eastern preservation parcels. Public use is not compatible with the vernal pool management on the eastern parcel due to the fragility of the area and potential destruction by public foot traffic. Public Use is not currently planned for nor considered to be a part of this Preserve Management Plan. Such use is not anticipated while the preserve area is under private ownership.

Fire Management Goals

The Subject Property was required to provide Fuel Protection Zones for the western parcel on the area just west of the apartment development. The Fuel Protection Zones are three twenty-foot zones adjacent to the housing structures to provide fire protection through fire-resistant landscaping. The fuel protection zones are along the westerly facing slopes of the western parcel at the southern end of the development. The Fuel Protection Zones are under the management and maintenance of the apartment property manager and are not a part of this Preserve Management Plan, nor a responsibility of the Preserve Manager.

While there is no recent history of fire activity on this site, in the event of a need for Fire Department parking on or near the preservation area, it is advised that the Fire Department park on the existing easement roads. On the western parcel there are dirt access easement roads for the maintenance of the San Diego Gas & Electric (SDG&E) power lines. On the eastern parcel there is a dirt road just to the east of the property which is an access easement for the maintenance of an SDG&E gas pipeline and overhead electrical wires.

V. ADAPTIVE MANAGEMENT

Adaptive management requires adjusting management strategies and activities to reflect changes in the resources being managed over time. Therefore, periodic monitoring of the onsite resources is needed to gather information in order to make appropriate management decisions.

The restored Vernal Pool area on the east side of El Camino Real will be closely monitored by the Preserve Manager and any updated management strategy recommendations will be contained in the annual reports required by the agreement. These reports and strategy recommendations will be considered by the City of Carlsbad and direction will be provided to the Preserve Manager/Contractor.

VI. ADMINISTRATION AND REPORTING

Annual Summary, Work Plans, and Preserve Management Plan

Site-specific reports and annual work plans will be prepared and retained by the Preserve Manager and submitted to the City on an annual basis as an Annual Summary. The Preserve Management Plan is to be updated on an as-needed basis by the Preserve Manager to include any maps and graphics necessary to support the reports.

A report detailing the income and expenses related to the Preserve Management Fund shall be prepared and submitted to the City of Carlsbad annually. The Preserve Management Fund is to be managed by the Owner who will provide an annual accounting to the Preserve Manager for incorporation into the Annual Summary of the conservation area as an attachment.

The Annual Summary of the Preserve Management Plan maintenance, operations, and fund account are to be submitted to the City of Carlsbad no later than March 31 for the prior calendar year, with the first Annual Summary due March 31, 2013.

Data Management

Per the MFA, and subject to budgetary funds availability a rare plant survey and a California gnatcatcher survey are to be accomplished every 10 years, under the supervision and management of the Preserve Manager. The surveys and mapping, subject to budgetary funds available, are to be conducted and reported to the City of Carlsbad when completed and in a format the City requests.

Communication and Coordination

Up until the time the conservation area is transferred to the City or a third-party environmental management organization for perpetual maintenance and management, the Preserve Manager will coordinate the communication between the parties and ongoing activities for the property.

Management Funding Analysis (MFA) and Endowment Management

Manzanita Partners shall establish a Preserve Management Fund (Fund), also known as an endowment fund that will run with the land in the initial amount of \$51,000. In addition, Manzanita Partners will provide the annual management cost, outlined in the MFA, in an amount of \$2,500 per year for the first five years, to be termed the 5-Year Owner Contribution Plan. The \$2,500 is projected to exceed the maintenance and management as proposed in the MFA. The \$51,000 is to be invested in a 30-year Treasury bill, or similar investment with similar risk, which will accrue interest that will be used to cover the annual maintenance and management cost during the period following the initial 5-year period. The \$51,000 principal investment is expected to earn approximately \$1600 per year based on a 30 year Treasury Bill yield of approximately 3.15 percent.

The MFA for year 6 and beyond, with a budget of \$1,600 will remain as the management scope and budget, with any unused monies to be placed in a reserve account. The reserve account is to be used on an as-needed basis for the highest priority maintenance and/or management item(s), which may or may not be described within the MFA. The Preserve Manager is to recommend priority maintenance and management item(s) to be approved by the City of Carlsbad.

In the event that the reserve account exceeds ten times the annual operating budget, subject to the approval of the City, then the Preserve Management Plan can be revised by the Preserve Manager to best preserve the conservation area, and/or all or a portion of the reserve account monies can be invested to increase annual interest.

If the fund earnings do not cover the tasks within the MFA then the Preserve Manager is to advise of the highest priority tasks and under no circumstance is the Owner required to supplement funding beyond the initial \$51,000 endowment and 5-year Owner Contributions to meet the objectives of the Preserve Management Plan. The Preserve Manager will then have the authority, in consultation with the City of Carlsbad, to reduce maintenance and/or management for that year.

No portion of the principal amount of the Preserve Management Fund, or the 5-Year Baseline Funding Amount shall be expended without the specific authorization of the City of Carlsbad.

The Preserve Manager shall have the authority to draw all monies in excess of the 5-Year Baseline Funding Amount per year from the Fund revenue account to fund management and maintenance activities associated with the conservation area.

Manzanita Partners (Owner) will be the Fund Manager up until the time that the Fund and conservation area is transferred or managed by another entity that the City agrees to and Manzanita Partners, LLC is released from any further responsibility with respect to the conservation area and the fund.

Transfer of Ownership / Obligations

In the event that the City may never affect a transfer of ownership relating to the open space lot, Manzanita Partners may transfer its obligation under this Preserve Management Plan to a subsequent purchaser of the property or to a third-party environmental management organization at any time after the required endowment has been funded and put into place, subject to the approval of the City Planner which shall not be unreasonably withheld.

Upon the funding of the endowment, the City shall provide a written release to Manzanita Partners, or its successor, regarding all activities related to Condition No. 33 of Planning Commission Resolution 4620.

The City of Carlsbad may exercise its ability to take ownership of the land covered by the conservation easement, and within 120 days of the receipt of a written request from the City of Carlsbad, Manzanita Partners, or its successor shall transfer ownership and the obligation of the preserve management and operations under this Preserve Management Plan to the City or its designee.

In conjunction with the ownership transfer, this Preserve Management Plan shall be amended to address any changed circumstances, including, but not limited to, the release of Manzanita Partners, or its successor, from any and all responsibilities with respect to the land subject to the conservation easement and the Preserve Management Plan.

Reasonable Prevention of Trespass

The installation of the fencing by the Owner, and fence maintenance by the Preserve Manager, as depicted on Figure 4, shall be deemed adequate to fulfill the Grantor's duties stated in the Conservation Easement Deed as, "...shall undertake all reasonable actions to prevent the unlawful entry and trespass by persons whose activities may degrade or harm the conservation values of the Property."

Operations and Staffing

The operations and staffing are described within this Preserve Management Plan and the MFA. If the fund earnings do not cover the tasks described in the Preserve Management Plan and the MFA then the Preserve Contractor is to advise of the highest priority tasks and under no circumstance is the Owner required to supplement funding beyond the initial \$51,000 endowment and 5-year Owner Contributions to meet the objectives of the Preserve Management Plan. The Preserve Manager will then have the authority, in consultation with the Director of the Environmental Management Department of the City of Carlsbad, to reduce maintenance and/or management for that year and report on the changes in the Annual Summary.

VII. NOTICES / CONTACT INFORMATION

Correspondence and notices relating to the Preserve Management Plan should be addressed as follows:

A) Preserve Contractor

Habitat Restoration Sciences, Inc., aka HRS

Mark Girard, President

4901 El Camino Real Blvd., Suite D

Carlsbad, CA 92008

Phone: (760) 479-4210

Fax: (760) 479-4190

Cell: (760) 519-7230

Email: info@hrs.dudek.com

B) Owner/ Preserve Manager / Fund Manager

Manzanita Partners, L.L.C.

Attn: Ralph W. Tilley and E. Scott Dupree

3990 Ruffin Road

Suite #100, San Diego, CA 92123

Phone: (858) 614-7200

Fax: (858) 614-1646

Email: rtilley@conam.com

sdupree@conam.com

C) City Habitat Management Program (HMP) Department

City of Carlsbad

Property and Environmental Management Department

Mike Grim, Senior planner, HMP coordinator

1635 Faraday Ave.

Carlsbad, CA 92008

Phone: (760) 602-4623

Fax: (760) 602-8562

Email: hmp@carlsbad.ca.gov